BOARD OF ZONING APPEALS Minutes May 22, 2001

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas, was held at 1:30 p.m., on May 22, 2001, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, Kansas.

The following Board members were in attendance: JOHN ROGERS, MARY DESENA, RANDY PHILLIPS, BRADLEY TIDEMANN, JAMES SKELTON, and JAMES RUANE. The following Board member was absent: FLOYD PITTS.

The following Planning Department staff members were present: DALE MILLER, Secretary, SCOTT KNEBEL Assistant Secretary, Recording Secretary, ROSE M. SIMMERING.

Also present: DOUG MOSHIER – Senior Assistant City Attorney.

Also present: KORTNEY CAPELLO – Commercial Plan Review/Commercial Zoning -- Office of Central Inspection.

ROGERS: I am going to ask the Secretary to call the role, please.

SIMMERING: Completes role call.

ROGERS: I believe the first Item on our Agenda today is to review and approve the minutes for April 24, 2001. Has everyone had a chance to review the minutes? I would entertain a motion.

RUANE moves SKELTON seconds to approve the minutes for April 24, 2001.

MOTION CARRRIES 5-0.

ROGERS: The second Item on the Agenda is case number BZA2001-0001, Scott?

KNEBEL: This case has been deferred twice at this point we are expecting to receive some additional information from the applicant that we have yet to receive as far as the site plan that shows how the property would be developed with the reduced setback for the carport so we need to hear from the applicant.

ROGERS: If you would please approach the microphone and give your name and address, please.

LORENZO --I am here for Cesar Mendoza, who was the Interpreter for the Applicant, Vincente Soto, my address is 251 N. Millwood, Wichita, KS: The information that you asked Mr. Soto is this survey we would like to present this.

MILLER: While we are waiting on copies, are all of the Board members up to speed on this particular case? Do you need any additional background?

RUANE: Could you give us a refresher what context we left it in?

KNEBEL: Well, essentially at the last meeting the applicant had asked for a deferral in order to have the property surveyed to show the actual location of the improvements. There were some questions regarding where the property line was in relation to the improvements on the site. Whether the carport encroached upon the neighboring property which is what we expected from the visual inspection without being handed the survey which was done to show the actual location of the property line and the existing carport which was in a half constructed state. The applicant has requested a variance to reduce the side yard setback to, I guess, to an undetermined amount at this point to allow a carport to be located in this side yard between the house and the north property line. It looks like from looking at the survey that the carport is right on the property line there is a ½ or ¾ foot of separation between the carport and the property line itself.

At the last meeting we made an assumption that the fence was on the property line and if you look at the survey you will see that the fence is actually not straight and does not actually represent the property line but actually encroaches upon the applicants property at the rear of his lot. According to this survey the carport is about right on the property line.

The reason that it was deferred was that the applicant was going to come back and tell us what it is that he wants to construct and how far away he wants that carport to be from the property line.

DESENA: So according to this, at present the way that the carport is constructed, is over or is it on the property line?

KNEBEL: It appears to be entirely on the applicant's property.

DESENA: Is there something to refresh me about is there some kind of numerical number that is from the property line?

KNEBEL: The carport is supposed to be 6 feet from the north property line in order to conform to the Zoning Code. So they are looking for a reduction from a setback of 6 feet ..Unless the applicant is willing to reconstruct the carport to some greater distance from the property line.

ROGERS: I have a question for you, have you come up with any other alternatives other than what we presented at the last meeting?

LORENZO --Interpreter for the Applicant, Vincente Soto: Mr. Soto is saying that he does not have no more things to tell you. He wants to know if he can go 2 feet from the property line, to move the carport 2 feet from where it is right now and he wants to see if he can do that.

SKELTON: Did I hear that he was asking for a 2 feet variance now?

KNEBEL: I think he might want to clarify that? Is that what you are requesting

now?

SKELTON: 4 feet?

PHILLIPS: 2 feet from the property line, is what I heard.

KNEBEL: Reduction to 2 feet, right to be reconstructed?

LORENZO: Yes, right now he wants to just move it 2 feet.

KNEBEL: 2 feet to the south.

LORENZO: So he can park his truck and open the doors.

MILLER: It is currently as built to where it is only 6 inches? The Inspector is here maybe he can tell us what is out there and give you some options in terms of what the particulars are.

JIM GARCIA, BUILDING CONSTRUCTION INSPECTOR FOR THE OFFICE OF CENTRAL INSPECTION: Richard Meier, the other Inspector in the area both he and I field verified the exact location of the post in reference to the property line. He has a series of 6 supporting post on the north side; the far east closest to the street is 8 inches away from the property line. The far most face of the 4 X 4 column, the north face we have 8 inches clear, on the last supporting post to the west, that dimension is 2 ¾ inches. So the post are in his property but only 2 ¼ inches away from the property line at the west and 8 inches away from property line at the far east. Which means that he could not have an overhang unless he got permission from the neighbor to have a 2-foot overhang. The overhang would only be 2 ¼ inches if it stayed in this location.

ROGERS: Any questions for Mr. Garcia?

DESENA: Could you, I don't know if it is appropriate but could you give a sense for how the variance would work, the variance that they are requesting would pull that in some does it seem workable to everybody?

GARCIA: Right now the width of the carport ...

DISCUSSION BETWEEN LORENZO, APPLICANT AND GARCIA:

KNEBEL: Just to sort of address that question it looks like were they to move it 2 feet that would leave 10.7 feet width for the carport and the normal parking space is 9 feet wide.

GARCIA: The existing width of the carport is 13 feet 3 inches, and by moving it south 2 feet it would still allow him to drive his car in so I guess he is asking for a 2-foot variance.

ROGERS: Mr. Garcia, does that measurement include the overhang that is hanging into the neighbor's property?

GARCIA: No, if he is given a 2-foot variance then he can go with a standard 2-foot overhang, which would be 2 ½ inches away from the property line.

SKELTON: Does anybody know if the house next to it is owner occupied or is it is rental house?

DISCUSSION BETWEEN LORENZO AND APPLICANT:

GARCIA: It is on a contract purchase, they are still buying it.

DISCUSSION BETWEEN LORENZO AND APPLICANT:

GARCIA: The applicant just told me that he has spoken with the neighbor to the north and he has agreed to allow him to do whatever he needs to do to get this thing to work.

ROGERS: Does the Board have any more questions for Mr. Garcia or Mr. Soto?

SKELTON: Mr. Chairman, I am still not sure on the overhang issue is that indeed going to be over the neighbors property or is it with the 2 foot setback now? Or is it going to be removed? Or is it going to be rebuilt? Or what is it going to look like if we give a 2-foot variance here?

GARCIA: The standard 2 foot, what we call a standard 2 foot overhang will be all in his property by 2 ¾ inches at the west end, and by 8 inches at the east end.

SKELTON: That is the overhang?

GARCIA: Right. Presently existing location it was 2 ¼ inches and the 8 inches to the face of the column. So if it left that way then he wouldn't have an overhang he would have to come up with a gutter or something that doesn't encroach the property.

PHILLIPS: For the Boards clarification, what you are asking for Mr. Soto then is, instead of encroaching 6 feet which would basically put us down to zero on the setback you want to encroach 4 feet into the setback allowing 2 feet clear from the property line is that correct? Mr. Garcia, do you happen have any idea I was looking for it on the survey the distance from the property line to the existing home to the north? I think I know what it is just roughly?

GARICA: It doesn't have a dimension here, it is 12.7 feet it is a little note just above where it says Lot 11 just above that.

PHILLIPS: No, I am talking about the house to the north. How far is that from the property line in other words how far away? If we are going to be 2 feet or 2.7 feet from the property line how much total distance because that is what the fire department is going to be looking for is the total distance.

GARCIA: That is approximately 6 feet, that is initially what he did, he took that dimension instead of from the property line, 6 feet he took it from the face of the house 6 feet so that is where that is at.

ROGERS: Thank you. Are there any more questions from the Board for Mr. Garcia? We will restrict the discussion to the Board here on this Item. May I hear you feeling?

PHILLIPS: I have a question for staff. I have read the recommendation from staff on this given the change in request what is your position on this now?

KNEBEL: I don't think that we are concerned with the reduction down to 2 feet. There was never really any information that we had been provided until today.

PHILLIPS: Well what I mean have you had a chance to at least discuss it? Or does that effect your recommendation now is maybe what I should be asking.

KNEBEL: Well I think that we are okay with the reduction to 2 feet as long as there is no encroachment on the property where originally applied for.

ROGERS: Thank you. Does anyone want to entertain a motion?

PHILLIPS: I will give it a shot here but what we may need from legal is possibly some assistance in addressing the five items. I think that first it needs to be noted that the request has been or that the variance has been adjusted from the original request to reducing the setback to zero or encroaching 4 feet into the 6 feet side yard setback to a request to reducing it 2 feet or otherwise reducing the setback by 4 feet. Is that clear enough? Without changing request, I would make a motion.

PHILLIPS moves: I MOVE THAT THE BOARD ACCEPT THE FINDINGS OF FACT AS SET FORTH IN THE SECRETARY'S REPORT; AND THAT ALL FIVE CONDITIONS SET OUT IN SECTION 2.12.590(b) OF THE CITY CODE AS NECESSARY FOR THE GRANTING OF A VARIANCE HAVE BEEN FOUND NOT TO EXIST AND THAT THE VARIANCE BE GRANTED SUBJECT TO THE CONDITIONS SET OUT ...Excuse me...I think I started out wrong here. I AM GOING TO APPROVE THIS...

KNEBEL: You will not be able to use the motion subject to the facts set out in the Secretary's report.

PHILLIPS moves DESENA: I MOVE THAT THE BOARD ACCEPT THE FINDINGS OF FACT AS SET FORTH AS FOLLOWS; AND THAT ALL FIVE CONDITIONS SET OUT IN SECTION 2.12.590(b) OF THE CITY CODE AS NECESSARY FOR THE GRANTING OF A VARIANCE HAVE BEEN FOUND TO EXIST AND THAT THE VARIANCE BE GRANTED SUBJECT TO THE CONDITIONS AS FOLLOWS:

The property is unique because the adjacency and the basic dimensions between the property line and the adjacent home. Given the fact that we have nobody to object and that there has been a verbal confirmation that there has been consent by the adjacent property owner's that the adjacent owner will not be adversely affected.

The strict application of the variance of the provisions of the Zoning Code may constitute an unnecessary hardship because of the fact that it appears to be the only way that they can possibly provide protected storage for their vehicle.

The granting of the variance would not adversely affect the public interest, because it is a residence and it appears there is no other objection from the community.

The granting of the variance would not be subject to the general spirit and intent of the Zoning regulations because of the fact that we have reviewed the case and I am going to make some adjustments to the recommendations here or provide some recommendations.

- 1. There shall not be any overhang from the structure other than a downspout.
- 2. That the total width of the structure shall be limited to 10.7 feet.
- 3. That the north side of the structure shall not be enclosed at any time. Anytime that the structure would be enclosed the variance shall be null and void.
- 4. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the side yard setback shall be reduced from 6 feet to 2 feet on the north side of the property. This setback reduction shall apply only to the carport shown on the survey submitted to the Board of Zoning Appeals.
- 5. The applicant shall obtain all local permits necessary to construct the indicated improvements, and all improvements shall be completed within one year following the BZA approval of the variance unless such time period is extended by the BZA.
- 6. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ROGERS: Very good. You have heard the motion and we have a second.

MOTION CARRIES 6-0.

SKELTON: I have a quick question for legal. Can this Board legally pass a variance for a structure or whatever it maybe that encroaches on the adjacent property? Can we legally do that?

MOSHIER: No. That is not what anybody is doing here.

SKELTON: That is just a question.

MOSHIER: No. It is not a variance issue that would be a private property issue.

PHILLIPS: I have a question for staff again. Assuming that the way the motion will be written or presented that the reduction of setback is only at the constructed carport as such it does not extend to the length of the property other than the effect carport, correct?

KNEBEL: Correct.

ROGERS: Thank you, Mr. Phillips, the third Item on our Agenda is BZA2001-00002, Scott.

KNEBEL: Again this is an Item that has been deferred twice and is for some signage for Wal-Mart for those people who need a refresher. The Wal-Mart at 21st and Maize is seeking to allow signage onto a parking area that has less than 150 feet of depth on the building signage on the frontage there. Then also they are seeking building signs that are more than three building signs per building elevation.

There were handouts the last meeting and they are attached again to the staff report showing the signage that is requested. I was contacted by Central Inspection after the last meeting and they did indicate that the area of calculations for the signage, the raw footage only calculate the area of the letters themselves and that is not the technical way that the signage is calculated. It is actually calculated at the box measuring from all four corners leaving an open space within those letters so the total square footage of the signage would need to be recalculated. There is not a variance to exceed the maximum square footage of building signage on single frontage, which is 20% of the frontage. I don't believe that they will exceed that even after you recalculate so that is not going to be a need to address that in the future but I just want to point out that the square footage in the signage, the numbers that are provided here are lower than what is actually being requested.

ROGERS: Thank you. Would the applicant please approach the microphone?

BOICE-RAIDL-RHEA ARCHITECTS, MICHAEL SEMRICK, AGENT:

On our first request we are asking for signage on what is known as the Tire, Lube, Express area and from the front of that is actually the parking space is in between two outcroppings on the building so it gives us less than 150 feet. We are going to have about 50 to 75 feet of paying or parking area. The signage that we are proposing here is mainly for directional informational purposes. It basically just identifies where it is this signage will not be visible from anywhere unless you are traveling from south down 21st Street.

We can technically put on the end of this outcropping of the building and it would be highly visible. Back here you are not going to see it unless you are actually

coming around the building or going into there. It just kind of identifies that area is where the Tire, Lube, Express, automotive area and that is where that comes in. So we are asking for that to be there because we have less than 150 feet of parking area there. Technically it could be calculated as part of the front façade because it does face front wards. It could share the front parking lot of the actually front façade of the store. Because technically we have several breaks in the wall and if this one façade was kind of different, maybe we could count each break in the facade where the pilasters are breaking this building up as a different façade. But that is why we are asking, coming before you asking for a variance to allow signage on a wall with less that 150 feet of parking.

On our second request for an allowance for additional amount of signs, the reason why we are coming here is by Code we are allowed 20% of the wall area for signage. Under that we probably could get around 3200 square feet of signage. We are limited by the three signs and it is my understanding that you are allowed to draw a box around several different signs to include that as one sign. However, due to the size of our building we exceed the 400 square feet per sign limit. Let's say, Dillon's across the street, I have some pictures here if you would like to see them. They actually have several signs on their building also but I think they were allowed to box in their signs and include or count those as one sign because their store is about three times smaller length wise then our building they are able to compress those signs and not exceed those 400 square feet. Whereas because our building is so large it is hard for us to box a sign in and pay for that dead space and still stay within that 400 square foot limit.

I would like to point out also that normally the proto-packets that we offer for Wal-Mart is about 1245 square feet. We have tried to reduce that down and it is going to be a little bit lower because when you box them around it is going to increase the signage a little bit but I don't think that it is going to increase it that much. We have tried to reduce that from 1245 square feet, to 993 square feet to kind of come proportional with other area developments and stay within the limits of what everybody else that has a decent size store is trying to accomplish there.

On the last meeting I handed out a handout that offered up to the five points of the criteria that we needed to meet to get this variance. I can go through those again if you would like but I don't know if we need to. But again we are asking what we think is proportional to the area for example Dillon's their building is about 200 feet in length and approximately 20 to 25 feet high that gives them 4500 square feet of wall area which would give them by Code 900 square feet of signage. They are limited to the three signs not to exceed 400 square feet, which they can do because they are smaller. We have 600 feet of building length by approximately 25 feet height so we get about 16,000 square feet of wall space which gives us the 3200 allowed. We are trying to stay with what Dillon's would actually be allowed in signage and we just ask for an increase in the allowed number of signs on the building so that we can put the signage up that we are proposing. Because if we had to in order to get it if we actually grouped it and cluttered it together into a box to stay within that 400 square feet we could get it but then you would have a cluttered messy look on the building. Whereas we are trying to spread it out and try to give it a better aesthetic look to the signage and so that is why we are coming before you asking for this request. I will save the

rest of my time for any questions that you may have.

Does the Board want to see the pictures? I don't know if any of you are familiar with the Dillon's out there that has signage on there building?

ROGERS: Sure. While those pictures are being passed around does the Board have any questions for Mr. Semrick?

DESENA: I have one question. Are you saying that this Dillon's has met the standard by boxing in verbiage and calling it one sign?

SEMRICK: That is my understanding, because if you look on the front there, where we are showing the...

DESENA: Is this Dillon's master lube?

SEMRICK: No, that is an actual Firestone sign. That was to show that they have directional signs over their bay doors as well, that is separate picture there in the area there as well. Where we have the Produce, Meat, Deli, the One-Hour, the Optical, the Pharmacy, they have the same thing, they have a Dry-Cleaners, Video Sales, Florist, Chinese Kitchen, Seafood, they have not counting the Bank sign because the one that will be on our building is being handled separately they have about seven different signs on there but they were able to..

DESENA: Like this one with the...

SEMRICK: Yes, they were able to, my understanding to box those in to be counted as one sign. With their building being so much shorter than ours it is easier for them to stay within that 400 square feet. We have more than three times the length of the building that they have so it is harder for us to group signs in and stay within that 400 square feet. Yet, we are still only asking to put up an amount of signage that would be comparable to what they would be allowed and our building is that much larger.

PHILLIPS: Is it clear to the Board, which ones are backlighted and which is not? Can you maybe clarify that?

SEMRICK: This is the only one the Wal-Mart that is internally illuminated and that is the only sign on the building that will be illuminated.

SKELTON: Michael, are there going to be any tenant signs placed on the outside of this building?

SEMRICK: Just the bank sign, that is the only other sign. Everything else is as it is showing on the rendering.

SKELTON: The only thing that is not showing on this rendering is, there is an Oil logo that is suppose to go right here?

SEMRICK: That is representive of the Oil logo.

SKELTON: And the bank sign?

SEMRICK: Yes.

SKELTON: There is not going to be any others?

SEMRICK: No, that is it.

RUANE: In case you don't remember the last time we dealt with this I made an announcement with regard to potential interest that I might have and it is something that I had also discussed with Sharon Dickgrafe. I am General Counsel for Fidelity Bank, two different perspectives here. One is, that we will be the bank tenant in this building and will at some point in the future be requesting a bank sign, which is not a part of this application. Secondly, the bank also owns one of the out parcels that is, within the 150 feet swath out in front of this sign that causes them to need this variances. The bank has not taken a position. Nor do I, but I am relative to that, but I want the minutes to reflect that interest has been fully disclosed.

ROGERS: Do we have any more questions for Mr. Semrick from the Board? Thank you Mr. Semrick. Is there anyone else here to speak regarding this case?

KNEBEL: I do have staff from Central Inspection to answer any questions you might have regarding the Sign Code and the stuff mentioned regarding the boxing in signs.

ROGERS: Does the Board have any questions for staff regarding the signage code? I only have one question for staff. How far back would this building have to sit before they would not needed variance number one?

KNEBEL: Well the issue is that you have got the parking area itself is boxed in and so it is really not an issue of the setback of the building itself but the fact that there has to be 150 foot area in front of the building signage and if the separation between outcroppings in the building were 150 feet wide then the first variance would not be required.

ROGERS: Thank you. I would entertain a motion.

PHILLIPS: Can I revisit one thing? I think you question about the required distance here maybe could help. Could the applicant help here, regarding the distance we have less than 150 feet, what is the actual distance from the front of the building to one of the out parcels, any idea on that?

SEMRICK: It is approximately, or at least 400 feet. You are talking from the front of the building out?

PHILLIPS: To the back of the out parcel not from the street facing the building.

SEMRICK: Well there is approximately 300 to 400 feet of parking area out

there. Can I approach to see what you are looking at?

PHILLIPS: What is the distance from here, these are the out parcels.

SEMRICK: Approximately anywhere from 200 to 400 feet of parking area in

nere.

PHILLIPS: That is kind of a wide range.

SEMRICK: I do not have an exact number on it, the site plan that I have is out in the car. It is well greater than 150 feet.

TIDEMANN: The depth of the parking lot from the back part of the out parcel to the front door of Wal-Mart? Do you know the dimension?

SEMRICK: I don't have the exact dimension for you, but it is more than 150 feet, I know that.

TIDEMANN: The linear footage of?

SEMRICK: Yes.

PHILLIPS: I am a little confused then. The basic variance says: 1) Variance to allow building signs fronting onto a parking area with a depth of less than 150 feet.

KNEBEL: That is for one sign, if you look at the staff report there is an attached site plan on the south side of the building there is a Tire Lube Express. Just that particular wall has less than 150 feet of parking area.

DESENA: I have one more clarification just to make sure that I am on the right track. My understanding was when we had this case before that this is an exceptionally large building and that because the variance sort of, if you broke this building down into more than one building there would not be a problem with the signage. Am I on the right conceptual track?

KNEBEL: That is accurate for there to be three business...

DESENA: They could be close together, this is a building, this is a building, and this is a building, that signage would be allowed.

KNEBEL: There could be three businesses in this single building and each of those businesses would each be allowed three signs up to a total maximum of 20% of the building area for signage.

ROGERS: Thank you, Scott, any more discussion from the Board some ideas on this case?

DESENA: It seems reasonable to me to go with this request.

SKELTON: I have always maintained that if somebody could make a motion that I feel satisfies the five requirements I will vote for it. One thing in particular about this case, I have thought about you know a couple months since we heard it last is the total area of the square feet of the total area he is staying within those perimeters, there is only one lighted sign. So I am going to consider a motion that would pass this variance; but I am not going to make it because I don't have the words for it. I have said that before.

TIDEMANN: Mr. Chairman, I am going to move to override staff's opinion on this and try and work through this myself.

TIDEMANN moves PHILLIPS seconds: I MOVE THAT THE BOARD ACCEPT THE FINDINGS OF FACT AS SET FORTH IN THE SECRETARY'S REPORT; AND THAT ALL FIVE CONDITIONS SET that is not that right one...

RUANE: Drop down a paragraph.

TIDEMANN moves PHILLIPS seconds, that the Board finds that the following facts to exist:

Uniqueness:

The project in question does display uniqueness to it, in that the building will be 208, 043 square feet and will actually house several different types of tenants. This is quite a bit larger than them ordinary retail store, or for that matter any of the surrounding "big box" retail businesses in the community. Also the amount of setback from the right-of-way is also either equal to or greater than most other establishments, which adds to the uniqueness.

Adjacent Property:

In regards to adjacent property, it seems fitting to look back on the uniqueness of this project. The surrounding commercial areas probably do contain "direct competitors" of Wal-Mart but many of these businesses usually only offer one type of service, such as oil change, grocery, or pharmacy, in a much smaller scale building structure. Since Wal-Mart houses several types of services, under one roof, it is hard not to be a "direct competitor" with surrounding businesses. Should being a "direct competitor" be the basis on why we are limited in communicating available services to the public through informational signage, especially since we have already reduced the overall total square feet of signage from one thousand two hundred forty-five down to nine hundred ninety-three square feet? (Note: this amount is comparable to what other establishments in the area could be allowed) In addition, there are only four very small, non-illuminated signs that face the residential area surrounding this property and become less visible due to screening. In summary it is hard to see where the granting of this variance can in any way negatively impact adjacent properties.

Hardship:

Due to the fact that every Wal-Mart Supercenter is not created exactly alike it is necessary to inform the public of what particular services are available at different locations. In not being able to display the informational signage pertaining to services offered at this location it potentially puts this store in a position to lose business to another facility that offers the same service and is allowed to communicate it. In summary the provisions of the zoning regulations may constitute an unnecessary hardship upon this location, in as much that surrounding establishments are proportionally allowed equivalent amounts of signage. However, due to the size of the building structure Wal-Mart may not be allowed the same advantages.

Public Interest:

In view of public interest it should be pointed out that signage for this location could actually have been approved without a variance requesting an allowance for additional signs. However, in order to this we would have been forced to crowd signs together, which offered a cluttered and unsightly arrangement. Our request is based on the premise that we would are well within the amounts of square feet allowed for signage and only request a minimal increase in the number of signs allowed in order to present a package that is more conducive to what the city is trying to achieve.

Spirit and Intent:

To quote the sign code section 24.04.020 – purpose – "That purpose of the sign regulations set forth in this chapter shall be to eliminate potential hazards to motorists and pedestrians; to encourage signs which, by their location and design, are harmonious to the buildings and sites which they occupy, and which eliminate excessive and confusing sign displays; to provide an opportunity to achieve a reasonable balance between the need of the sign and outdoor advertising industries while improving and preserving the visual qualities of the community; to protect public and private investment in buildings and open spaces; to provide for the administration of the regulations imposed and set forth herein; and to promote the public health, safety and general welfare."

Due to the amount of setback from the right-of-way and the size of the building structure the overall magnitude of the signage is significantly reduced and since none of the proposed signs resemble traffic related signage, it is hard to associate any possible hazard with these signs. Again the sign package has been designed and laid out to give the best possible appearance aesthetically, to avoid an excessive and cluttered appearance, and present a more attractive structure to the community. A licensed contactor is used to secure all signage to the wall of the building in order to ensure the safety of the public in close proximity to the building. In summary, the sign package we are presenting is no way contradicts the spirit and intent of the ordinance set forth in section 24.04.020.

AND THAT ALL FIVE CONDITIONS SET OUT IN SECTION 2.12.590(b) OF THE CITY CODE AS NECESSARY FOR THE GRANTING OF A VARIANCE HAVE BEEN FOUND TO EXIST AND THAT THE VARIANCE BE GRANTED subject to the following conditions:

The variances to allow building signs fronting onto a parking area with a depth of less than 150 feet and to allow more than three building signs per building elevation are GRANTED, subject to the following conditions:

- 1. The building signage for Wal-Mart shall be limited to and shall be placed in locations that are in substantial conformance with those shown on the attached elevation renderings.
- 2. The building signage shall be limited to a total of 1,519 square feet, and each individual sign shall be limited in size to those dimensions shown on the attached elevation renderings.
- 3. The applicant shall obtain all permits necessary to construct the building signage and the building signage shall be erected within one year of the issuance of the sign permit, unless such time period is extended by the BZA.
- 4. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

DESENA: That the signs conform to the plans that we received here.

SKELTON: Michael did say to me that there was going to be one bank sign put on the outside elevation, so those are his statements.

TIDEMANN: With that exception of the bank sign, that is different because it is going to be a different tenant so to speak?

SEMRICK: Right.

KNEBEL: Do you want to require the applicant to provide a corrected calculation of square footage of signage and include that maximum number in your motion?

PHILLIPS: I would second that also with wanting to include the recommendations from staff where they had noted that should the Board determine that the conditions necessary to the granting of the variance exist, the four conditions there with that correct calculation be attached.

ROGERS: I might ask Mr. Tidemann, this does cover number one and number two? Is that acceptable staff? Do I have a second?

PHILLIPS: My second would stand as the motion is presented for both request one and two.

MOTION CARRIES 5-0-1.

ROGERS: Let the record show that Mr. Ruane has abstained from this vote.

MOSHIER: I don't think that you can do that. It will go as an "Aye" vote unless you are declaring a conflict. I thought you were not declaring a conflict.

Are you declaring a conflict?

RUANE: That wasn't what I understood Sharon to advise me when we first heard this.

MOSHIER: I am a substitute today and I don't have the by-laws in front of me but typically the by-laws for City Boards do not provide for an abstention being anything but an "Aye" vote. If you wish to not vote you need to declare a conflict and I understood that you were saying that you didn't have a conflict you can certainly declare a conflict then you don't have to vote.

RUANE: I am going to declare a conflict.

MOTION CARRIES 5-0-1.

ROGERS: The next Item on our Agenda is, BZA 2001-00021, Scott.

PHILLIPS: Mr. Chairman, before you get into explanation from staff, I need to declare a conflict of interest on this and I will step down. Our firm is the architectural record for the project for both the clinic and the hospital. I will see you after this case is over.

ROGERS: Thank you Mr. Phillips.

KNEBEL: The applicant is requesting two variances, one is to increase the maximum area of two ground signs to 96 square feet each, the General Office zoning district permits those ground signs for each business to be a maximum of 32 square feet. The second variance is to increase the maximum area of two building signs, one is requested for 130 square feet and the other is requested for 101 square feet. Again the General Office zoning district permits 32 square foot building signs for each business within an area.

The property is located along Woodlawn, north of Mainsgate, which is between 21st and 29th on the east side of Woodlawn. The existing building is a former insurance building it is rather large about 90,000 square feet as you can see here in the aerial photograph. The property surrounding the site is still, while this is a little bit dated, is still primarily undeveloped. There is one office use that has been developed since this particular photo was taken and that is in this location here, where there is a Voice Stream office that has recently been open within the last year or so.

These are the signs that the applicant is requesting, the two ground signs, one for Galichia Medical Group, which is a doctor's office and Galichia Heart Hospital, which is a hospital as the name implies. This is a rendering of the building signs from a distance and then a close up above the actual building itself.

This is the site plan showing the two entrances to the site, one on the southern end and one on the northern end, the applicant is proposing a building sign here, and a building sign here. General Office district requires 150-foot separation and the applicant has provided over twice that distance worth of separation between those

signs. This is looking along the frontage. I am standing about the point where the northern most sign would be located. The southern most sign would be located about in this point down here. This is looking at the building itself, I don't have very good light, but wall signage would be in this location and this location over here.

As you can see it is under construction for pretty extensive remodeling, there is a letter attached from the applicant that describes the nature of the remodeling and the intended use of the building if you are interested. I won't go into it in detail unless you have questions. This is looking to the south, this is an office use here that I mentioned, some multi-family housing, there is single family housing behind these trees, it is oriented such that it faces some cul-de-sacs away from the subject property. This is the vacant property that is currently zoned single-family across Woodlawn to the west it is possible. I don't know that the land use guide from the Comprehensive Plan indicates that it would be and continue to be residential properties that it could potentially be developed another way some day it is a possibility I would just put in as an editorial comment. The property to the north is zoned for office use and is currently vacant at this point.

The criteria necessary for approving the variances, I will go through what staff has found regarding these.

We do find that the property is unique in that typically office structures of the size of this particular building as you can see here which is 90,000 square feet would house more than 2 businesses. Each business would be allowed a 32 square foot wall sign. Were they to be placed across the front kind of like the discussion that we just had regarding Wal-Mart, you would have a similar amount of wall signage as you would on the wall.

Again, with the ground signs, those are permitted for multiple tenant uses up to 96 square feet each; or if you had six tenants in this particular building you could have two 96 square foot signs each having three tenants advertised on the sign. So we think that it is unique in that just because you only have two that are occupying about the same amount space as potentially six or maybe even more businesses could occupy in this location.

As far as impact on adjacent property most of the property that would have a direct view of this sign is undeveloped and is used for agricultural purposes. Which we don't believe is going to have any adverse impact on those existing uses or uses to be coming in after the fact. The signage would be there and would be a known entity that the people who developed those properties could consider. I also mentioned previously that it is possible that the property directly across the street could be developed for a higher intensity use were a zone change to be approved for that particular location. Any of the residential structures in the area do not have a direct view of this signage, they all face interior streets away from this location.

As far as the hardship, it deals a lot with the uniqueness of the property the fact that since there are just two businesses and a rather larger site you would have just two 32 square foot building signs, which given the setback, I don't know the exact distance off the top of my head but it is rather significant from Woodlawn. Thirty- two square foot building signs in these two locations probably would not be visible and probably would not be worth the time to put them up there from those particular location.

As far as the ground signage that is requested the applicant is requesting 192 square feet of signage. Were this site to be developed with multi-businesses there could be as much as 290 square feet of ground signage across that frontage into or even into three signs given the fact that there is enough distance across the frontage to provide the separation between signs.

As far as the public interest, we think that the signage is tasteful in design. This is not asking for anything other than for identification of the business name that is located in there. There is nothing in this particular request that is different in contrast to the last request where there were slogans, advertising gimmicks that were proposed for the signage. In this particular request all they are asking for is just for an identification of the name so that customers will enter the facility in the appropriate location. With the Medical Group on the south end, and the Heart Hospital on the north end of this large building.

Again the same with the signage, the ground signage they are asking for a sign at each of the two entrances that identifies the appropriate entrance for that particular business.

The spirit and intent we feel is met in as much as the signage provides the sole purpose of identifying the location of this facility and the particular facility is of public interest and benefit given that it provides medical services.

The recommendation of staff is that the variances to increase the size for both the ground signage and the building signage be granted subject to the conditions that are listed on page 3 and 4. Essentially stating that they will be placed in the manner as indicated on the paperwork submitted with the application and will not exceed the sizes requested. With that I will answer any questions.

ROGERS: Thank you Scott. Is there someone here that would like to speak for this Item?

JOHN MULLEN, GALICHIA MEDICAL GROUP, CEO AND CFO OF THE MEDICAL PRACTICE ITSELF AND A PARTNER IN THE HEART

HOSPITAL: Thank you Scott for your presentation. As presented here, one of our challenges that we are having that we are trying to achieve here is recognizing our customer base has to do with health care individuals. In particular one of our specialties is Cardiology and within that population mix you have a tendency to have an older population group. So as far as visibility of sign for convenience and also direction purposes we find it obviously very beneficial and imperative that we can get signage out front to be able to demonstrate to the customers out there, in this case the patients where the location is.

Because we do have two organizations, businesses, in this it is a little bit more of

a challenge to make sure that we try to direct the traffic accordingly. The way in which the structure is developed is the front portion of the building is primarily used for clinical purposes. Where the second half and towards the north portion of it is used for the hospital and therefore part of the signage we will have on the north side on the entrance on the ground signage be that of the Galichia Heart Hospital that was presented here. On the south side which is the main exit going into the clinic portion then, we have this similar in the same balance of the sign that we have there.

Recognizing our office hours with the two businesses we really have two complete different time frames. One from the clinic standpoint we are traditionally as you see a lot of clinics here town and that is that we are open early in the morning say 6 or 7 o'clock in the morning for testing and then later on in the evening say 5 or 6 o'clock in the evening we begin to shut down the operations here. While on the other hand the hospital itself is a 24-hour service 7 days a week. So again for communication purposes, and flow of traffic that is one of the objectives that we are trying to achieve is making sure that we identify what is available for the patient.

The patient comes in with a chest pain, the initially come in through the clinic when recognizing that maybe because of the time they have the visibility to see that the clinic is not operational at this point and time but they have the luxury then to go to the hospital in itself.

As we look at the signage out front, again, you face the property to the west as presented by Scott, it is my understanding that it is the School Board's intention to utilize that particular property. So when we talk about some of the tenants around the particular area or residence it may be the ones immediately to the west of us again I believe it is the School Board's intention to occupy that space.

Our signage as viewing is concerned as you are driving down the street again, or be it from the west side of the property actually what you would see is a very thin narrow portion of it because the signage will be facing north and south as the traffic is coming up and down the Woodlawn area. As we look at portraying the name and direction on the building as the second request, recognizing this building as described as a fairly large building, and setback at a pretty significant distance somewhere in the proximity of 330 to 350 feet offset. So, even though we obtain the attention of the individuals again what we are trying to do is to guide them to the ultimate direction here.

We feel like with the un-direct lighting that it will have a very minimal affect but also a very classy affect so you can still see it at night time. Because one of the challenges we are going to have from the hospital perspective and against the health care delivery is where do you seek those services there? This facility does not contain an emergency room this is what you see in some of the other health care areas. So again as you look at the signage and the slogans and what not we have tried to keep it very simple and very direct, and very named direction out there.

The building itself is another unique challenge that we have because of the dimensions of it. Recognizing that facility has been here in Wichita for some

period of time. It is a fairly low level building and again what we are trying to do is obtain the eye connection and the contact with the individuals as to where the location is. At this point and time what we have tried to do in conjunction with the City out there is making sure that we do our landscape that we do it in a very tasteful manner. In fact our approach right now is to do probably twice the expectation of us to try to again appeal to that general area in that proximity there.

If at all possible if we do have the acceptance of the Board here we would ask if we could get temporary signage as we are being challenged in a very short period of time of actually being in operation. If possible we would like to have temporary signage of a very similar magnitude as we begin to occupy this building June 18th. It is my understanding in working with the signage folks we have which is Tri-mark representing us who is here today it will be at least 30 to 60 days before the signage that we are proposing here could be completed and actually installed.

If there are any questions about the project, I would be more than happy to address them, we just ask for your consideration in this.

ROGERS: Thank you. Is there anyone in the audience to speak against this case? I believe all the Board members were passed out a blue memo from the President of the Comotara Homeowner's Association. Has everyone got that memo and had a chance to read it?

KNEBEL: I did speak with Ms. Myers this morning on the phone and she had stated that she is not able to come today to speak, so I suggested that she provide her comments in writing.

ROGERS: Since every Board member has had a chance on their own to read this memo does it need to be read verbatim?

KNEBEL: No.

ROGERS: Thank you. We will restrict the discussion to the Board. Even though I will not make the motion I will give my feelings on this case that I agree with staff, I do support this variance or both variances does anyone agree?

SKELTON: I agree, Mr. Chairman.

TIDEMANN moves RUANE seconds: I MOVE THAT THE BOARD ACCEPT THE FINDINGS OF FACT AS SET FORTH IN THE SECRETARY'S REPORT; AND THAT ALL FIVE CONDITIONS SET OUT IN SECTION 2.12.590(b) OF THE CITY CODE AS NECESSARY FOR THE GRANTING OF A VARIANCE HAVE BEEN FOUND TO EXIST AND THAT THE VARIANCE BE GRANTED SUBJECT TO THE CONDITIONS SET OUT IN THE SECRETARY'S REPORT.

ROGERS: I believe the last Item on our Agenda is Report from Central Inspection.

CAPELLO: I have no reports.

MEETING ADJOURNED 2:34 p.m.